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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 02 194 50127 Office: CALIFORNIA SERVICE CENTER Date: MAR 31 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 103(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is an employment agency. It seeks to employ the beneficiary permanently in the United States as an employment interviewer. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification filed on January 13, 1998, and approved by the Department of Labor on September 4, 2001. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition.

On appeal, counsel submitted a brief and additional evidence related to the petitioner's ability to pay the proffered wage and to the petitioner's recruitment efforts. On the ability to pay issue, counsel submitted a copy of the company's business license, a copy of a company profile, a copy of "Reviewed Financial Statements for 2002," a copy of a "Compilation Report," a copy of a "Bank Report" from California Bank Trust, and an amendment to a rental agreement. On the issue of its recruitment efforts, counsel submitted a copy of a Recruitment Notice dated August 3, 1999 and copies of tear sheets that ran in late July and early August 1999, a copy of the notice of job availability posted by the petitioner, and a copy of correspondence between the petitioner and the California Employment Department.

Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States.

8 C.F.R. § 204.5(g)(2) states, in pertinent part:

> *Ability of prospective employer to pay wage.* Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be in the form of copies of annual reports, federal tax returns, or audited financial statements.

The petitioner must demonstrate eligibility beginning on the priority date, the day the Form ETA 750 was accepted for processing by any office within the employment system of the Department of Labor. Here, the Form ETA 750 was accepted on January 13, 1998. The proffered wage as stated on the Form ETA 750 is $14.57 per hour, or approximately $30,306 per year.

Counsel submitted numerous documents in support of the petition. As evidence of the petitioner's ability to pay the proffered wage, counsel submitted copies of income tax returns filed by CSI Professionals, Inc., which included a Form 11020A U.S. Corporation Short Form Income Tax Return for 1999 and a Form 1120 U.S. Corporation Income Tax Return for 2000. Because the evidence submitted was insufficient to demonstrate the petitioner's continuing ability to pay the proffered wage beginning on the priority date, the California Service Center, on August 13, 2002, requested additional evidence pertinent to that ability.

Specifically, the Service Center requested copies of the petitioner's income tax records to include Forms 1120, 2220, 4562, and 5472, as appropriate, and all schedules and tables for the years 1998 through 2001. The Service Center specifically noted that no tax documents for 1998 had been submitted. The Service Center also requested copies of the petitioner's California Employment Development Department (EDD) Form DE-6, Quarterly Wage Reports for all employees for the last three quarters that were accepted by the State of California.[1]

In response, on or about November 1, 2002, counsel submitted additional evidence in the form of the corporate tax returns for tax years 1999, 2000 and 2001. As to the 1998 tax records, counsel noted that an individual tax return was being submitted for that year as the petitioner had been a sole proprietorship in 1998 and converted to an S corporation in 1999. Counsel indicated that he was also submitting copies of the Form DE-6 Quarterly Wage report for the last three quarters. However, neither the 1998 tax return nor the actual DE-6's were submitted. What counsel instead submitted were a 1997 tax return and five sets of documents that purport to indicate the petitioner's satisfaction of tax obligations. Four sets of documents were copies of checks executed by CSI Professionals, Inc. made out to California Bank & Trust, with a notation that the checks were for 941 Tax Deposits. The fifth set of documents consisted of a copy of a check from CSI Professionals made out to EDD with a notation that it was a 4th Quarter DE-88 Payroll Tax Deposit, and related payment coupon to EDD to accompany the check.

In addition, counsel submitted two documents relating to the beneficiary's experience. The first document was an undated "Certificate of Employment" from an individual identified as Choon Kim, who signed as Manager of Daelim Consumer Center, Ltd. Counsel's letter indicates that additional evidence related to the beneficiary's experience included "copies of contracts and pertinent letters (with the translation) so as to confirm that Mr. Duck Ho Kim is receiving compensation from the company and was rendering his services." (Response to RFE at p.1) The record received by the AAO contains no such documents although there are translated documents that appear to relate to the beneficiary's marriage and resident registration in Korea.

The director determined that the evidence submitted did not establish that the petitioner had the continuing ability to pay the proffered wage beginning on the priority date, and on February 4, 2003, denied the petition.

On appeal, counsel asserts that the tax information submitted in support of the petition clearly supports the petitioner's ability to pay the wage. Counsel relies principally on *Matter of Senegawa*, 12 I&N 612 (Reg. Comm. 1967), to advance his argument that the petitioner has the ability to pay the proffered wage despite indications in the record of deficiencies in net profits. Counsel's basic assertion is that the petitioner has become a premier employment agency in Southern California and has captured lucrative contracts that indicate favorable business growth. Counsel further asserts that CSI's previous years of company operations were "uncharacteristic and unusual" but that it "reasonably expects an increase in its profits in the future." (Brief at 9.)

In determining the petitioner's ability to pay the proffered wage, CIS will first examine the net income figure reflected on the petitioner's federal income tax return, without consideration of depreciation or other expenses. Reliance on federal income tax returns as a basis for determining a petitioner's ability to pay the proffered wage is well established by judicial precedent. *Elatos Restaurant Corp. v. Sava*, 632 F.Supp. 1049, 1054

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[1] Parts 5 and 6 of the Form ETA 750 noted that the petitioner had six employees and that the beneficiary would be filling a new position.

(S.D.N.Y. 1986) (citing *Tongatapu Woodcraft Hawaii, Ltd. v. Feldman*, 736 F.2d 1305 (9th Cir. 1984); see also *Chi-Feng Chang v. Thornburgh*, 719 F.Supp. 532 (N.D. Texas 1989); *K.C.P. Food Co., Inc. v. Sava*, 623 F.Supp. 1080 (S.D.N.Y. 1985); *Ubeda v. Palmer*, 539 F.Supp. 647 (N.D. Ill. 1982), aff'd, 703 F.2d 571 (7th Cir. 1983). In *K.C.P. Food Co., Inc. v. Sava*, the court held that the INS, now CIS, had properly relied on the petitioner's net income figure, as stated on the petitioner's corporate income tax returns, rather than the petitioner's gross income. *Supra* at 1084. The court specifically rejected the argument that CIS should have considered income before expenses were paid rather than net income. Finally, no precedent exists that would allow the petitioner to "add back to net cash the depreciation expense charged for the year." *Chi-Feng Chang v. Thornburgh, Supra* at 537. See also *Elatos Restaurant Corp. v. Sava, Supra* at 1054.

As the record demonstrates, the director concluded that the information submitted did not demonstrate the petitioner's ability to pay the proffered wage of $30,306 during the required period beginning with the priority date of January 13, 1998.[2] The director found that the taxable income for tax years 1999, 2000 and 2001 fell below the proffered wage, but noted that the net current assets for those years appeared sufficient to cover the proffered wage of $30,306. However, the director further noted that the petitioner had failed to demonstrate that ability for the 1998 tax year. The director noted that following the Service Center's request for the 1998 tax records, counsel indicated that he was submitting the1998 tax return, but instead submitted the 1997 Form 1040 Individual Income Tax Return for Arturo B. Ordiales, with no tax return for 1998. The director noted that along with the 1997 tax returns, counsel submitted unaudited financial statements for 1998, but that they would be given little weight as they were based solely on the representations of management. The director further examined the information contained in the 1997 tax return and concluded that the adjusted gross income of $1,090 was inadequate to satisfy the proffered wage. In addition, the director's decision found that petitioner's increased financial growth appeared insufficient to sustain three additional employees as reflected in Service records of I-140 petitions filed by the petitioner.[3]

Petitioner's Ability to Pay the Wage

Before addressing counsel's contentions on appeal, the AAO finds it necessary to clarify one matter that continues to be obfuscated by counsel's lack of a direct response. This is the issue of whether counsel has submitted petitioner's tax returns for the 1998 tax year. In support of the appeal, counsel again asserts that the petitioner's 1998 tax returns have been submitted in support of the petitioner's ability to pay. (Petitioner's Brief at p. 3.) The AAO notes that a similar representation was made in counsel's Brief in Support of the Motion to Reopen filed December 18, 2002. (Motion to Reopen Brief at p. 2), and in the November 1, 2002 letter describing the evidence being submitted in support of the Service Center's Request for Evidence. (Response to RFE at p. 2.) The Service Center specifically requested the 1998 tax return in its RFE. As noted above, counsel's response indicated that it had been submitted. The director's decision was very clear in noting that no tax records had been submitted. The director's decision provides:

> In response to the [CIS] request for evidence sent on August 13, 2002 and on the Motion to Reopen dated December 16, 2002 the counsel invariably states [that the 1998 tax return was being provided]. However, the 1998 federal tax return was not submitted. The counsel has instead provided the 1997 federal tax return.

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[2] The record reflects the following for each year: 1999, taxable income of $35,910, and net current assets of $30,716; 2000, taxable income of ($3,307), and net current assets of $40,724; 2001, taxable income of $19,866, and net current assets of $43,049.

[3] Specifically, CIS records reflect that the petitioner has filed at least three I-140s for individuals. It is also noted that the petitioner has filed I-129 petitions for several more individuals as nonimmigrant workers.

Director's Decision at p. 2.

Despite the director's very specific reference to the absence of the 1998 tax returns and the obligation to clarify the ambiguity, counsel has made no effort to clarify the absence of the 1998 tax records, but indicated again that they had been submitted. The AAO finds this failure to clarify the record troubling. It has been held that doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Further, the petitioner is obliged to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (Comm. 1988). On this basis alone, the AAO could decide to affirm the director's decision as counsel has failed to clarify matters at issue and the documents he has submitted do not adequately address the petitioner's ability to pay the wage. The AAO will nonetheless proceed to evaluate arguments presented on behalf of the petitioner, and will also address additional matters beyond the director's decision that merit more a more detailed treatment and raise additional questions about the petition.

Reliance Upon *Matter of Sonegawa*

Counsel argues that the evidence demonstrates that the business has undergone significant growth and that the initial years' low revenues demonstrate an uncharacteristic low point in business operations that are not representative of the true business earnings. The petitioner relies upon *Matter of Sonegawa*, 12 I&N Dec. 612 (Reg. Comm. 1967), in which it was held that approval of a petition is not precluded due to inadequate net profit in a given year where numerous other indicators demonstrate that it is reasonable to attribute it to an uncharacteristic loss.

Counsel argues that similar factors exist in the instant case. First, counsel notes that CSI is a company that has been licensed to conduct business in California and "offers services outside the traditional job placement concept." Second, counsel asserts that the company, which was established in 1998, incorporated one year later as part of an expansion program. Third, counsel states that CSI "has become one of the premier employment agencies in Southern California...has captured some of the most lucrative contracts in the staffing industry and has carved a commanding niche in providing permanent placement in a number of industries." (Petitioner's Brief at 8.)[4] Fourth, in support of the assertion that the company reasonably expects increased profits, counsel states that the 20002 net income was $104,885, and the total current assets amounted to $131,103.[5] Counsel further notes that for 2003, the company was expecting an increase in net profits of about 20% from the previous year. Fifth, counsel asserts that the petitioner has been engaged in a competitive business for over seven years, and that no evidence exists that it will not continue in business for many more years. While acknowledging that the 1998 through 2001 tax years did not demonstrate a net income, counsel argues that the company's gross income has consistently been more than half a million dollars. Finally, counsel asserts that the company's continued growth and restructuring has resulted in the company moving into a larger office space, and in the need to hire the beneficiary to interview and select people meeting employer qualifications.

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[4] In support of these claims, counsel has offered a copy of the Company Profile. (See Exhibit J). A review of that document discloses that it is a profile developed by CSI itself, and even then, contains none of the claims made in counsel's brief regarding the status of the company within the job placement industry. It is further noted that the remaining articles, which purport to be newspaper accounts about the petitioner's business, are advertising supplements rather than true news articles profiling the petitioner.

[5] In support of this statement, counsel offers a statement from Jose Daroya, identified as a certified public accountant. The Daroya report simply states that he has reviewed balance sheet and accompanying income and expense statements and is not aware of modifications that need to be made. The report notes that it is prepared based upon the representations of management, and offers no assurances on any accompanying statements or assumptions.

In *Sonegawa*, the Regional Commissioner determined that the petitioner's prospects for a resumption of successful business operations were well established. The petitioner was a fashion designer whose work had been featured in Time and Look magazines. Her clients included Miss Universe, movie actresses, and society matrons. The petitioner's clients had been included in the lists of the best-dressed California women. The petitioner lectured on fashion design at design and fashion shows throughout the United States and at colleges and universities in California. The Regional Commissioner's determination in *Sonegawa* was based in part on the petitioner's sound business reputation and outstanding reputation as a couturier.

The AAO finds that while counsel has made many assertions regarding the increased business prospects and increases in the company's growth, much of this are merely counsel's assertions and are unsupported by objective evidence. The assertions of counsel are not evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). In particular, the AAO notes that, although counsel relies heavily upon the petitioner's stature in the job placement industry and its alleged lucrative contracts, no objective, verifiable, evidence has been submitted in support of these assertions such as copies of those contracts, or business profiles conducted by objective sources.[6] Counsel asserts that the company has expanded and moved to larger office space. In support, counsel has submitted an addendum to a lease agreement (not included), that indicates the terms upon which petitioner would occupy office space at 3255 Wilshire Blvd, Suite 1406. However, there is no indication other than a floor plan, as to whether petitioner's office space move truly reflects a significant increase in office space needs. The map provided indicates that the petitioner would be occupying 935 square feet of office space under its new lease, and appears to be moving from office space only somewhat smaller. However, an actual comparison of the current office space compared to the previous office space occupied is not possible due to the lack of definitive evidence.

In addition to the arguments regarding the applicability of *Matter of Sonegawa*, counsel also argues that the bank records it has submitted demonstrate that the petitioner has a sufficient cash flow to pay the proffered wage. However, there is no evidence that the bank statements represent additional funds beyond those represented in the tax returns. Simply making such assertions is insufficient to satisfy petitioner's burden of proof. *See Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg. Comm. 1972). Bank statements, without more, are unreliable indicators of ability to pay as they do not identify funds that are already obligated for other purposes.

Additional Issues Presented by the Petition

Beyond the director's decision, the AAO finds that there are a number of questionable and unresolved issues that cast doubt on the sufficiency of the evidence in support of the petition. They are set forth here as additional reasons that support a denial of the petition.

Successor in Interest

Counsel asserts that the petitioner became an incorporated entity in 1999. The record reflects a copy of a Fictitious Business Name Statement for Career Source International reflecting an initial filing of December 9,

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[6] Although the tax returns do demonstrate considerable growth in the petitioner's gross receipts, this growth has been offset by corresponding increases in deductions from income that have resulted in minimal taxable income and losses in some years.

1997, by Arturo B. Ordiales, and indicating that an individual would operate the business. Prior to that date, according to counsel, CSI Professionals was operated as a sole proprietorship. The 1997 tax records submitted in support of the petition reflect that Arturo Oridiales filed a return as a single individual. The Schedule C (Profit or Loss from Business) for the sole proprietorship showed that the business name was Career Source International, and reflected an employer identification number (EID) of 95-4661880.

No tax records or other information pertaining to the business were submitted for 1998; therefore the record is unclear regarding the status of the business at that time. However, the record does contain the Form 1120-A U.S. Corporation Short-Form Income Tax Return for 1999. That document reflects that CSI Professionals, Inc. was filing its initial return as a corporation, and had incorporated on March 18, 1999. The tax return reflects a new EID for the petitioner of 95-4740244.

It is apparent that there has been a change in the petitioner's underlying business arrangement from that of a sole proprietorship. Counsel's own submissions for 1997, in response to the RFE indicate a business operated as a sole proprietorship by Arturo Ordiales, not Marge Ordiales who submitted the I-140 and ETA 750 on behalf of CSI Professionals, Inc. The successor-in-interest must submit proof of the change in ownership and of how the change in ownership occurred. It must also show that it assumed all of the rights, duties, obligations, and assets of the original employer and continues to operate the same type of business as the original employer.

The successor-at-interest petitioner is obliged to show that its predecessor had the ability to pay the proffered wage beginning when on the priority date and continuing throughout the period during which it owned the petitioning company. The successor-at-interest must also show that it has had the continuing ability to pay the proffered wage beginning on the date it acquired the business. See *Matter of Dial Repair Shop* 19 I&N Dec. 481 (Comm. 1981).

The record reflects that CSI no longer operates as a sole proprietorship, and that there is now at least one additional individual involved in the business operations. In fact, the new individual appears to have assumed the lead in the business matters related to the visa petition. Furthermore, the business now operates under a different EID. While this may simply be a result of the business' incorporation, it does reflect that the state and federal government considered these entities to be distinct businesses based upon representations made. Furthermore, it is noteworthy that the business appears to have changed dramatically in terms of its growth. As a single proprietorship in 1997, it generated gross receipts of $5,240. Even if this reflects only business operations for one month, if that amount is assumed for each month, the business' net profits would approach approximately $60,000 per year. In comparison, the business generated over $448,627 in gross receipts for only nine months of operation in 1999, its first year of incorporation. The information in the record reflects a dramatic shift in business operations that appears to have resulted in large part from a fundamental alteration of the business operations. It therefore is incumbent upon the petitioner to demonstrate the nature of the shift in business operations in order to demonstrate that CIS Professionals, Inc. is a true successor in interest to the original sole proprietorship that submitted the request for labor certification that established the original priority date.[7]

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[7] The AAO is also troubled by an additional discrepancy in the documents submitted. Part 4 of the ETA 750 submitted by Marge Ordiales, as owner, indicates the employer's name is Career Source International, whereas the I-140 indicates in Part 1 that the company is CSI Professionals, Inc. While it might be assumed that this name change simply reflects a name changes attributable to incorporation of the businesses in between the two filings, this is not supported by the information reflected in the fictitious business filing. That document reflects that Arturo Ordiales submitted the fictitious business name filing as an individual. It is also not supported by the Schedule C of the 1997 tax return that reflects that Arturo Ordiales was operating a business under the name Career Source International. Should additional proceedings related to this petition occur, at a minimum these discrepancies would need to be

Petitioner's Status as an Employer

Another issue concerning the petitioner that remains unclear is the nature of its status as an employer and its ability to pay the wages of any employees, including any wages it has committed to pay to the beneficiary. As noted previously, the petitioner and the sole proprietorship under which it previously operated have separate EIDs. The Service Center requested information in the form of DE-6 Quarterly Wage reports. The Service Center specifically requested that the information include the names, social security numbers, and number of weeks worked for all employees. As the petitioner had indicated in the Form I-140 that it currently employed six employees, the Service Center was appropriately seeking to determine whether the petitioner had the ability to pay the proffered wage and had a record of meeting payroll obligations.

Counsel failed to submit any such evidence or to offer an explanation for the failure to do so; yet, the letter submitted by counsel in response to the RFE indicates that the payroll reports were provided in Exhibit D. The director correctly noted that the requested records were not provided but that instead of those records the petitioner submitted the Form 8109 Federal Tax Deposit Coupons and EDD Payroll Tax Deposit DE 88. As the director's decision notes, "although these forms may show tax deposits paid, these forms do not establish how much is actually paid to the current six employees noted on the I-140 petition nor does it show the petitioner supports the wages of full-time permanent employees." The AAO agrees with the director's conclusion and adds that the evidence submitted is not even dispositive on the issue of what amounts were actually paid to the state for payroll tax purposes, let alone providing the information sought by the director. The evidence as to whether the petitioner actually employs any individuals is suspect. Although the tax returns do reflect amounts for salaries and wages, we find these to be inconclusive, as it is possible that these salaries and wages pertain to salaries paid to Arturo and Marge Ordiales, the President and Vice-President of CSI Professionals. Even if they do not, they do not support the petitioner's ability to pay the wage as the amount of the salaries, if spread out over the number of employees claimed, would be for amounts significantly below the proffered wage.[8]

Evidence of the Beneficiary's Experience

Another issue beyond the director's decision relates to the evidence of the petitioner's experience. The ETA 750 noted that in order to be qualified for the position of employment interviewer, the beneficiary needed to have a minimum of two years of experience as an employment interviewer. Part B of the ETA 750 indicates that the beneficiary was unemployed from April 1996 to the date of the filing of the petition but that he had previously been employed in Korea at Daelim Consumer Center, Ltd., a food distribution company, for a period of six years as an employment interviewer. However, when counsel submitted the I-140 petition, no verification of the beneficiary's employment by Daelim Consumer Center, Ltd. was submitted. Instead, counsel submitted a signed declaration from the beneficiary, dated February 6, 2002, in which the beneficiary stated that he had been employed on a full-time basis as employment interviewer for Daelim Consumer Center, Ltd., from March 1990 until March 1996. The declaration, which also summarized the beneficiary's duties, is noteworthy in a few respects. First, it asked CIS to accept the declaration in lieu of a certificate of employment from Daelim Consumer Center, Ltd. because the beneficiary had been unsuccessful in contacting his previous employer despite numerous attempts to do so. It also indicated that he had been unable to contact his previous supervisor through

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reconciled.

[8] The tax returns reflect salaries and wages paid as follows: 1999-$24,978; 2000-$73,361; and 2001-$56,904.

friends in Korea. The beneficiary also notes in the declaration that he elected to come to the United States with his family in order to seek better financial opportunities. (See Exhibit D).

Following this submission, the Service Center issued an RFE seeking additional information, including evidence from the previous employer. In response, counsel was then able to produce a "Certificate of Employment" from Daelim Consumer Center, Ltd. (See Exhibit A.) The undated certificate, submitted on company letterhead, related the beneficiary's dates of employment and duties performed. Interestingly, it noted that the company had closed at some point after the beneficiary left the company's employment. The AAO notes two issues with respect to the certificate. First, it seems curious that even though the certificate indicates that the company ceased operations subsequent to the beneficiary's departure in 1996, the certificate--offered subsequent to the petitioner's unsuccessful efforts to obtain a certificate of employment-- is submitted on company letterhead complete with an address and phone number for the company.[9] It seems curious that a business that has closed would be generating an official document signed by a manager. We further note that, while perhaps a complete coincidence, a manager identified as Choon Kim signed the Certificate of Employment. This is the same name as the petitioner's wife.

The petitioner, through counsel failed to submit evidence sufficient to demonstrate that the petitioner had the ability to pay the proffered wage during 1998. Additionally, various issues have been raised regarding the actual identity of the petitioner and whether the current petitioner qualifies as a true successor in interest to the current petitioner.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.

3/29/04/AAOCAH01/I/WAC0219450127.e31

[9] The address on the certificate is the same as the address provided for the Korean employer on the ETA 750. Consequently, we find the beneficiary's statements regarding his difficulties in being able to contact the business to lack credibility.